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HON. ROBERT S. SMITH (RET.)
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September 7, 2023

Hon. Colleen McMahon
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

In re New York City Policing During Summer 2020 Demonstrations,
1:20-cv-08924-CM

Dear Judge McMahon:

Together with the firm of Schlam Stone & Dolan LLP, I represent the intervenor-defendant Police Benevolent Association of the City of New York, Inc. (“the PBA”). I write to request an opportunity for the PBA to oppose the motion to approve a settlement of this case.

Your Honor signed an order granting the motion today, perhaps in the belief that the settlement was adopted by all parties and the motion was unopposed, but that is not correct. Although the motion papers submitted by the other parties to the case do not mention it, the PBA has made clear for several months that it does not agree to the proposed settlement, which, in the PBA’s view, is contrary to the public interest and will create unacceptable safety risks to the PBA’s members and to members of the public.

The motion to approve the proposed settlement was filed two days ago, on September 5, 2023. Yesterday, September 6, I emailed all counsel to confirm that the PBA opposes the motion and to suggest that we agree on a briefing schedule, subject to the Court’s approval. I requested thirty days to prepare the PBA’s opposition. Attorneys for the plaintiffs and the City replied that they were considering the suggestion and would get back to me. (Copies of the emails I refer to are attached to this letter; I have deleted earlier, unrelated emails from the thread.)

I submit that the PBA, as a party to the case, is entitled to be heard in opposition to the motion. I therefore respectfully request that Your Honor vacate your order of earlier today, and direct that the parties seek to agree, subject to court approval, on a briefing schedule for the motion.

Respectfully yours,



Robert S. Smith

From: Siddiqi, Omar (Law) <osiddiqi@law.nyc.gov>
Sent: Wednesday, September 6, 2023 4:47 PM
To: England, Travis; robert.smith@rssmithlaw.com; Saldana, Lois; Stephen Mc Quade; 'Marykate Acquisto'; Balin, Robert; elena; Miller, Patricia (Law)
Cc: Faux, Meghan; Stoughton, Corey; Molly Biklen; mickeyo@lawyer.com; Wylie Stecklow; Thomas A. Kissane; gshah@nycpba.org; Daniel Lambright; Rebecca Price; Tahanie; Andrew Quinn; Weng, Jenny (Law); Everdell, Abigail
Subject: RE: [EXTERNAL] RE: FINAL PAPERS FROM CITY

Defendants are also considering and will get back to you.

Omar J. Siddiqi
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From: England, Travis <Travis.England@ag.ny.gov>
Sent: Wednesday, September 6, 2023 4:46 PM
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Subject: RE: [EXTERNAL] RE: FINAL PAPERS FROM CITY

Robert –
Plaintiffs are considering your request.
Thank you,
Travis

Travis W. England | Deputy Bureau Chief
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Pronouns: he/his/him

From: Robert Smith <robert.smith@rssmithlaw.com>
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Cc: Faux, Meghan <Meghan.Faux@ag.ny.gov>; Stoughton, Corey <CStoughton@legal-aid.org>; Molly Biklen <mbiklen@nyclu.org>; mickeyo@lawyer.com; Wylie Stecklow <wylie@wylielaw.com>; tkissane@schlamstone.com; Gaurav Shah <gshah@nycpba.org>; Daniel Lambright <dlambright@nyclu.org>; Rebecca Price <Rebecca_Price@nysd.uscourts.gov>; Tahanie <Tahanie@aboushi.com>; Andrew Quinn <aquinn@quinnlawny.com>; Weng, Jenny (Law) <jweng@law.nyc.gov>; Everdell, Abigail <AbigailEverdell@dwt.com>
Subject: Re: [EXTERNAL] RE: FINAL PAPERS FROM CITY

Counsel,

The PBA will oppose the motion filed yesterday for approval of the settlement. We suggest that we agree to a briefing schedule, subject to the Court's approval.

We think thirty days (i.e., until October 5) would be a reasonable time for us to prepare papers in opposition to the motion. Please let us know if this is acceptable, and tell us how much time you would like for your reply.